

REMARKS

This is in response to the outstanding Office Action dated December 9, 2008, indicated as being final.

Referring to the Office Action, on page 3, the Examiner indicates that the "AP" item listed on the Information Disclosure Statement submitted on August 4, 2008 has not been considered, since the "AP" item was not indicated as being from a counterpart foreign application. A copy of the cover page of the Information Disclosure Statement in question is attached hereto. In this regard, the cover page includes the following paragraph, "I hereby certify that each item of information contained in Form PTO-1449 accompanying this paper was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement." Since the "AP" item was submitted in compliance with 37 CFR 1.97, it is requested that the Examiner acknowledge consideration of item "AP" in the next written communication.

Claim 20 stands rejected under 35 USC 112, first and second paragraphs. Claim 20 has been cancelled herein, solely for the purpose of expediting prosecution.

Claims 18, 19, 5 and 8 stand rejected as anticipated by Danylieko (U.S. Patent No. 5 649 886). Danylieko '886 discloses a workout bench 2 having a head support 32 attached to the end of a spinal support 12 by a downwardly angled neck support 30. Head support 32 is thus positioned below the horizontal plane of the spinal support 12. Further, Danylieko '886 teaches that the neck support 30 has an angled surface configured to match the contour of a human neck (see column 4, lines 5-11 of '886). The above-described downwardly-angled and contoured neck support in Danylieko '886 provides relief of pressure on the neck and spine of the user during the performance of press exercises (see column 1, lines 13-19, and column 2, lines 44-49).

In contrast, Claim 18 recites "a head support section defining a flat head support surface...a back support

section...defining a first flat support surface disposed at the level of shoulder blade areas of a person, and a second flat support surface...disposed between said head support surface and said second support surface, said head support surface and said first and second support surfaces all lying within a common horizontal plane". As shown in Figure 1 of '886, the head support 32 and spinal support 12 do not lie in a common plane due to the downward extension of neck support 30. Further, neck support 30 in '886 also has an angled surface configuration and thus is not flat, as required by Claim 18.

In addition, Danylieko '886 teaches, at column 5, lines 32-38, that spinal support 12 at its' narrowest portion is about 4 inches in width. This dimension would not permit the movement of the arms and shoulder blade areas as required in Claim 18.

Claim 18 is accordingly believed allowable over Danylieko '886. Claims 5, 8 and 19 depend from what is believed to be an allowable Claim 18, are believed allowable therewith, and include additional features which further distinguish over the '886 reference.

Claims 18, 19, 5 and 8 stand rejected as anticipated by Lee (U.S. Patent No. 4 861 024). Lee '024 discloses an exercise bench 10 including a platform 22 supported on a frame 12. The frame 12 includes a pair of barbell support stands 14 at the head end 15 of the frame 12, and each stand 14 supports at the top thereof a barbell hook 16. Lee '024 teaches that the specific measurements of the angles of the frame are not critical, except that the geometry of the support stands 14 must place the barbell hooks 16 at the appropriate position directly over the neck, shoulders or chest of a user lying on the bench 10 in a position to perform bench presses (see column 4, lines 61-66).

Lee '024 also teaches that the platform is comprised of a solid member 30, a flexible resilient pad member 32 and a cover member 34, all of which are supported on the bench 10 on the upper frame member 17 as shown in Figures 2 and 8. The

solid member 30 has two cutouts 31 and 33 on opposite sides thereof for positioning under the shoulder blades of the user. The resilient pad member 32 is rectangular and covers these cutouts 31 and 32 from above, which is why the cutouts are shown in dotted lines in Figure 2. The pad member 32 is of sufficient thickness and density so as to provide a reasonable amount of support and comfort to the user without unduly restricting movement. Lee '024 does indicate that the pad member 32 may have the same shape as the solid member 30.

Claim 18 recites "a pair of areas which open sidewardly outwardly on opposite sides of said back support section for receiving the respective shoulder blade areas of the person...said areas being unobstructed sidewardly outwardly in a direction away from the central axis and being unobstructed downwardly in a direction transverse to the common plane to permit the respective shoulder blade areas and the arms of the person in respective sidewardly outwardly extended positions generally parallel to the common plane to move downwardly below the common plane without meeting any substantial resistance from said supporting device". With Lee's device, the cutouts 31 and 32 are obstructed sidewardly outwardly by the respective support stands 14 which are located on opposite sides of the frame 12, and are obstructed in a direction downwardly by the lower portions 21 of the support stands 14. Further, the cutouts 31 and 32 are obstructed downwardly by the pad member 32 when configured as a rectangle, since same covers the cutouts 31 and 32. Thus, it is submitted that the exercise bench taught in Lee '024 would not permit the movement of the shoulder areas and arms as required by Claim 18.

Further, Lee '024 teaches at column 5, lines 53-58 that making a generally narrow bench "which does not interfere with the user's movement, would not provide an effective alternative because the bench would be too narrow to be generally comfortable and would be too narrow to be stable for the user who may be lifting extremely heavy weights". This

passage teaches that Lee's device is not narrow enough to permit the movement of the shoulder blade areas and arms recited in Claim 18.

Still further, attached for the Examiner's consideration are comments compiled by the inventor relative to bench pressing exercises performed on benches. These comments mention that if the bench is too narrow, the user will not be able to find a flat, firm place to create the action-reaction through the shoulder blades, and that if the bench is too wide, the only harm is that the bench restricts the range during lowering of the weight. It is submitted that the above principle would apply to the use of the benches taught in Danylieko '886 and Lee '024, and that neither of same are intended to allow the freedom of movement recited in Claim 18 due to the large width dimensions of the areas of the devices located between the shoulder blade areas.

Claim 18 is therefore believed to patentably distinguish over Lee '024. Claims 5, 8 and 19 depend from what is believed to be an allowable Claim 18, are believed allowable therewith, and include additional features which further distinguish over Lee '024.

Claims 18, 5 and 8 stand rejected over Falbo (Pub. No. US2002/0056160). Falbo '160 discloses a patient support apparatus 10 for use in the performance of mammography and breast biopsy. The apparatus 10 includes a deck 12 having a plurality of removable filler sections 16, 18, 20 and 22. The apparatus 10 is especially configured for supporting the patient to permit her to present her breast to a mammography device 36 positioned in an access site within the deck 12, which access site is created when one or more of the filler sections is shifted or removed (see paragraph [0041] of '160). With reference to Figure 1, the apparatus 10 is particularly configured for allowing the patient to present for mammography in a left or right lateral decubitus position (i.e. the patient is lying on her side so that the targeted breast is positioned in the "up" position for imaging). In Figure 1,

the patient is in the left lateral decubitus position. The background section of '160 in paragraphs [0008] and [0009] discusses the advantages of being able to perform patient mammograms, needle localizations and core biopsies with the patient lying on her side.

Claim 18 recites "said width dimension of said second support surface, longitudinally between a location on said second support surface corresponding axially to a hip area of a person and a location on said second support surface immediately axially adjacent the respective said areas in which the shoulder blade areas are positioned, being of a dimension sufficient for fully supporting the width of a person's thoracic region while lying on the back". This is not the case with the deck 12 in Falbo '160. Specifically, the arm 58 in '160, which the Examiner equates with the "second support surface" in Claim 18, clearly does not have a width dimension between the location on the arm 58 corresponding to the hip area of the patient and a location on the arm 58 immediately axially adjacent the access site which would be created upon removal of either filler section 18 or 22, which width dimension is of a dimension sufficient for fully supporting the width of the person's thoracic region while lying on the back. In Falbo '160, the longitudinally elongated surface of the spine section 52 which extends transversely between and interconnects the arms 24 and 58 is of a limited width dimension, while arms 24 and 58 located at opposite axial ends of spine section 52 are each of a greater width dimension as compared to section 52. This is because the apparatus 10 of Falbo '160 is intended to support the patient when lying on her side, as discussed throughout Falbo. Further, even if one were to have the patient lie on her back on Falbo's apparatus 10, the width dimension of arm 58 (corresponding to the "second support surface" in Claim 18) is at most only sufficient to support the hip area of the patient, and not the thoracic region.

Further, Falbo teaches that the mammography device 36 is to be positioned in one of the access sites created when one of the filler sections 18, 22 is removed. Thus, even if the patient lies on her back on Falbo's apparatus, the access site would be obstructed sidewardly and downwardly by the mammography device 36 or even a member of the technical staff, in contrast to the language of Claim 18 which recites "a pair of areas which open sidewardly outwardly on opposite sides of said back support section for receiving the respective shoulder blade areas of the person...said areas being unobstructed sidewardly outwardly in a direction away from the central axis and being unobstructed downwardly in a direction transverse to the common plane to permit the respective shoulder blade areas and the arms of the person in respective sidewardly outwardly extended positions generally parallel to the common plane to move downwardly below the common plane without meeting any substantial resistance from said supporting device".

In addition, the width of the spine section 52 in Falbo '160 is too large to allow the movement of the shoulder areas and arms of the person as required in Claim 18.

Claim 18 is therefore believed allowable over Falbo '160. Claims 5 and 8 depend from what is believed to be an allowable Claim 18, are believed allowable therewith, and include additional features which further distinguish over Falbo.

Claims 18-20, 5 and 8 stand rejected as anticipated by Nelson (U.S. Patent No. 5 479 667). Nelson '667 discloses an ergonomic pillow assembly 12 having a head support assembly 36, a thoracic support section 38, and a waist/lumbar support assembly 39. The support surfaces of the assemblies 36, 38 and 39 are not flat (see Figure 7 of '667) and do not lie in a common horizontal plane. In contrast, Claim 18 recites "a head support section defining a flat head support surface...a back support section...defining a first flat support surface disposed at the level of shoulder blade areas of a person, and a second flat support surface, said first support surface

being disposed between said head support surface and said second support surface, said head support surface and said first and second support surfaces all lying within a common horizontal plane".

Further, with reference to Figure 4, because the pillow assembly 12 would have to be used on a surface, such as a mattress, the recesses provided on opposite sides of the thoracic support section 38 would clearly be obstructed downwardly by the mattress, in contrast to Claim 18 which recites "areas which open sidewardly outwardly on opposite sides of said back support section for receiving the respective shoulder blade areas of the person...said areas being unobstructed sidewardly outwardly in a direction away from the central axis and being unobstructed downwardly in a direction transverse to the common plane to permit the respective shoulder blade areas and the arms of the person in respective sidewardly outwardly extended positions generally parallel to the common plane to move downwardly below the common plane without meeting any substantial resistance from said supporting device".

Additionally, the support section 38 located between the head support assembly 36 and the waist and lumbar support assembly 39 is not narrow enough in width to substantially only support the spinal column region, since the section 38 must instead be wide enough to prevent the person from slipping off of the pillow, since same is intended for side sleepers.

Claim 18 is therefore believed allowable over Nelson '667. Claim 20 is cancelled, rendering the rejection thereagainst moot. Claims 5, 8 and 19 depend from what is believed to be an allowable Claim 18, are believed allowable therewith, and include further features which distinguish over Nelson.

Claims 18, 5 and 8 stand rejected as anticipated by O'Connor (Pub. No. US2003/0220176). O'Connor '176 discloses a weight training bench 10 including a bench platform 20

supported on a frame 40. Platform 20 has an upper end 22 a lower end 24, and integral upper and lower platform segments 26 and 28 extending between upper and lower ends 22 and 24. A seat 120 is also mounted on frame 40 adjacent lower end 24 of platform 20, and extends forwardly from lower end 24.

O'Connor teaches that each segment of the bench platform 20 and the seat 120 are oriented at angles relative to one another so to follow a corresponding spinal region of the user (see paragraphs [0033]-[0035] of '176). Claim 18, on the other hand, recites "a head support section defining a flat head support surface...a back support section...defining a first flat support surface disposed at the level of shoulder blade areas of a person, and a second flat support surface, said first support surface being disposed between said head support surface and said second support surface, said head support surface and said first and second support surfaces all lying within a common horizontal plane". O'Connor's bench 10 clearly does not include such support surfaces all lying within a common horizontal plane, and instead is intended to follow the contour of the spine.

Claim 18 is therefore believed allowable over O'Connor. Claims 5 and 8 depend from what is believed to be an allowable Claim 18, are believed allowable therewith, and include additional features which further distinguish over O'Connor.

Claims 18-20, 5 and 8 stand rejected as anticipated by Khalkhali (U.S. Patent No. 5 803 913). Khalkhali '913 discloses a stereotaxic localization apparatus 10 for breast carcinomas. The apparatus 10 has a horizontal table portion 12 having upper and lower surfaces 14 and 16, and openings or cut-outs 18 formed on opposite side regions 20 of table portion 12. As shown in Figures 1 and 4, the apparatus 10 is provided with positioning guide means or rack means 46 mounted to the underside 16 of the table portion 12 in the vicinity of the openings 18. The rack means 46 has a horizontal track portion 48 (X axis), a vertical track portion 50 (Y axis) and track portions 52 (Z axis). The track portions 48 and 50

provide tracks upon which movable sighting guides 54 and 56 slide, respectively. The cut-outs 18 are thus obstructed sidewardly and downwardly by the rack means 46, in contrast to Claim 18 which recites "a pair of areas which open sidewardly outwardly on opposite sides of said back support section for receiving the respective shoulder blade areas of the person...said areas being unobstructed sidewardly outwardly in a direction away from the central axis and being unobstructed downwardly in a direction transverse to the common plane to permit the respective shoulder blade areas and the arms of the person in respective sidewardly outwardly extended positions generally parallel to the common plane to move downwardly below the common plane without meeting any substantial resistance from said supporting device". Additionally, the patient must lie on her side or stomach in order to place the breast within one of the openings 18 and between paddles 24. The detection device 82 in '913 is positioned closely adjacent one side of the table portion 12 so that the screen 84 is parallel to the plane of the movable sighting guides 54, 56. Thus, even if the patient were to lie on her back on table portion 12, the shoulder areas and arms would not be able to move as required in Claim 18, due to the obstruction provided by the rack means 45 as discussed above, and due to the sideward and downward obstruction caused by device 82 and screen 84.

Claim 18 is therefore believed allowable over Khalkhali '913. Claim 20 is cancelled, and Claims 5, 8 and 19 depend from what is believed to be an allowable Claim 18, are believed allowable therewith, and include additional features which further distinguish over Khalkhali '913.

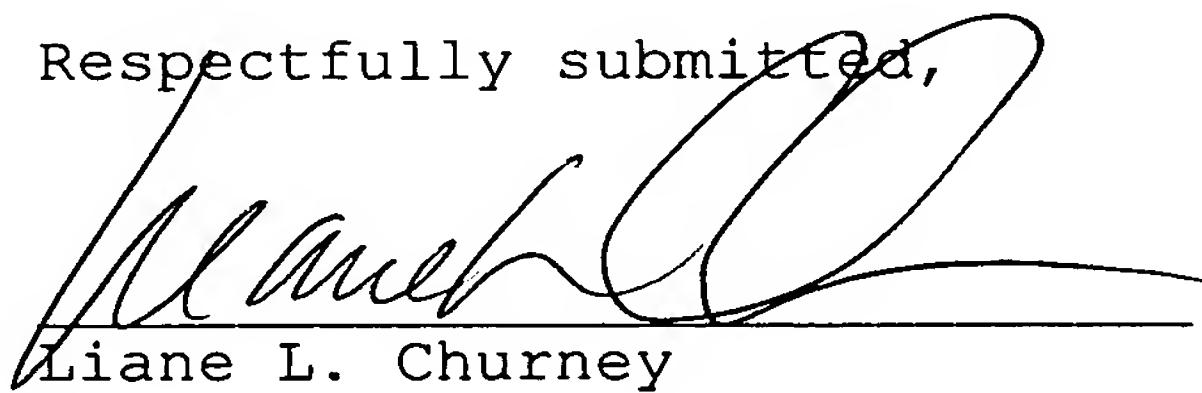
Claim 20 stands rejected as obvious over Danylieko '886 in view of either of Moriyama '461 or Nelson '667; as obvious over O'Connor '176 in view of either Moriyama '461 or Nelson '667; and as obvious over Lee '024 in view of either Moriyama '461 or Nelson '667. Claim 20 is cancelled, rendering the rejection thereagainst moot.

Claim 19 stands rejected as obvious over O'Connor '176 in view of either of Danylieko '886 or Lee '024. Claim 19 depends from what is believed to be an allowable Claim 18, is believed allowable therewith, and includes further features which distinguish over the above references.

Lastly, for the Examiner's consideration, attached are comments prepared by the inventor relative to the rejections in the outstanding Office Action.

In view of the above, the instant application is believed to be in condition for allowance, and action toward that end is respectfully requested.

Respectfully submitted,



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Encl: Copy of Information Disclosure Statement
submitted August 4, 2008 - 1 page
Copy of General Comments to Rejection - 3 pages
Copy of Comments from Experts About the Use
of Weights and Benchpressing - 2 pages

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